

Attorney's Docket No. 33339/234602

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:

Chantal Cayuela, et al.

Confirmation No.: 5142 Group Art Unit: 1645

Appl No.: Filed:

09/856,969 August 1, 2001

Examiner:

Jana I ines

For:

SELECTION AND USES OF LACTIC

ACID BACTERIA STRAINS MODULATING

NON-SPECIFIC IMMUNITY

Commissioner for Patents Washington, DC 20231

October 30, 2002

## RESPONSE TO RESTRICTION REQUIREMENT

In response to requirement for restriction mailed October 9, 2002, ap dicants provisionally elect the claims of Group I, namely Claims 1-6 and 10-20, with traverse.

Reconsideration by the Examiner and withdrawal of the requirement for restriction are respectfully requested. The technical relationship between the compositions of Group I and the screening process of Group II is that only lactic acid bacteria strains which are "positive" in said screening process, (i.e. which are capable of decreasing the production of NO by cultures of enterocytes preactivated with pro-inflammatory cytokines and bacterial LPS) can be used in said compositions.

This effect of some lactic acid bacteria on the NO response of enter ocytes was neither known nor suspected in the prior art. Thus, it clearly constitutes the common inventive concept that links together the claims of Group I and Group II. Consequently, the claims of Group I and Group II should be examined together in the present application. Withdrawal of the Restriction Requirement is requested.

Respectfully submitted,

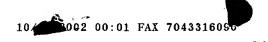
Raymond O. Linker, Jr. Registration No. 26,-19

CUSTOMER No. 00826 ALSTON & BIRD LLP Bank of America Plaza 101 South Tryon Street, Suite 4000 Charlotte, NC 28280-4000 Tel Charlotte Office (704) 444-1000 Fax Charlotte Office (704) 444-1111



In re: Chantal Cayuela, et al.
Appl No.: 09/856,969
Filed: August 1, 2001
Dogs 7

ļ	I hereby certify that this correspondence is being:  MAILING	FACSIMII E
	deposited with the United States Postal service with sufficient postage as first class mail, in an envelope addressed to the Commissioner for Patents, Washington, DC 20231 on October 30, 2002.	Facsimile transmitted to 1 te Patent and Trademark Office at 703-872-0306, on October 30, 2002.  Lorna Morehead





This facsimile message and its contents are legally privileged and confidential information intended solely for the use of the addressee. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this message and its contents is strictly prohibited. If you have received this telecopy in error, please notify us immediately by telephone and return the original message to us at the address shown below via the Postal Service. Thank Yo 1.

## ALSTON&BIRD LLP

FAX RECEIVED

OCT 5 1 2002

GROUP 1600

101 South Tryon Street, Suite 4000 Charlotte, NC 28280-4000

> 704-444-1000 Fax: 704-444-1111

## TELECOPY PLEASE DELIVER AS SOON AS POSSIBLE

OFFICIAL

DATE: October 30, 2002						
	USPTO – Group 1645					
FROM:	Ron Linker					
APPL. NO. 09/856,969 - Filed August 1, 2001  FOR OFFICIAL FILING - Non-Final						
NO. OF PAGES: 3 (Including cover page)						
IF NOT RECEIVED PROPERLY, PLEASE NOTIFY ME IMME DIATELY AT						
USER CODE:	LINKR	FAX NUMBER:	(703) 872-9306			
CLIENT/MAT		VOICE NUMBER:	(7)3) 872-9305			
REQUESTED	BY: Lorna 6146	VOICE NUMBER.				